

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

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| FRANK TUFANO, | : | |
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| Plaintiff | : | CIVIL ACTION NO. 3:24-cv-846 |
| | : | |
| v. | : | (JUDGE MANNION) |
| | : | |
| “FRANKIES FREE RANGE MEAT CONSPIRATORS,” | : | |
| | : | |
| Defendants | : | |

ORDER

Presently before the Court is *pro se* Plaintiff, Frank Tufano’s, Objection (Doc. 11) to the Report and Recommendation issued by Chief Magistrate Judge Daryl F. Bloom on November 6, 2024 (the “Report”), whereby Judge Bloom recommended a dismissal of Plaintiff’s second amended complaint without leave to amend for failing to state a claim upon which relief may be granted. (Doc. 9). Objections to the Report were due by November 23, 2024. Plaintiff had not filed any objection within that allotted time.¹ Rather, Plaintiff

¹ Plaintiff contends that the reason for his untimely submission is that he “did not receive the legal paperwork until the following week in November” after Judge Bloom issued his recommendation on November 6, 2024. Assuming *arguendo* this contention is true, Plaintiff still had another week to file an objection before the deadline (November 23, 2024) and two following weeks after the deadline to file an objection prior to this Court’s Order
(footnote continued on next page)

now files his Objection after the Court adopted the Report in its entirety. As grounds for objection, Mr. Tufano asserts that “[t]he preliminary decision of the judges to dismiss the case is a direct violation of Frank Tufano’s Seventh Amendment Right and a clear reason as to why the amendment was created in the first place” and “[a] jury of Frank Tufano’s peers is capable of making the same preliminary evaluation as the judge.” (Doc. 11, p. 1).

The right to a jury trial, whether Plaintiff was entitled to it or not, was terminated when the case was dismissed for failure to state a claim. The Court agreed with Judge Bloom’s observations that neither the criminal statute Plaintiff cited to nor the Fourteenth Amendment to the U.S. Constitution provided any grounds for Plaintiff to seek relief from the named Defendants. (Doc. 10). Plaintiff’s second amended complaint fared no better than his original and amended complaints that were also dismissed for failing to state claim upon which relief may be granted. In those aforementioned complaints, Plaintiff brought claims under Pennsylvania criminal statutes and a Pennsylvania Rule of Civil procedure, neither of which provided for a private right of action. (See Docs. 1 and 6). Accordingly, all the complaints

adopting the report on December 9, 2024. (Doc. 10). Nevertheless, putting aside timeliness concerns, Plaintiff brings forth neither grounds nor cogent arguments to reject the Report or overturn this Court’s order adopting the Report.

were dismissed with prejudice and this Court agreed with Judge Bloom's recommendation to give Plaintiff no further opportunities to amend his complaint. Thus, with his case dismissed, Plaintiff has no right to a jury trial and this objection is overruled.

Based on the aforesaid, **IT IS HEREBY ORDERED THAT** Plaintiff's Objection (**Doc. 11**) is **DIMISSED** and the case remains closed.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: December 17, 2024

24-846-03